

**JOINT REQUESTED PRELIMINARY INSTRUCTIONS
CONCERNING JURY QUESTIONNAIRES**

Good morning, ladies and gentlemen. I want to welcome you to this proceeding of the United States District Court for the District of Massachusetts, and to thank you for coming here today.

We are about to begin the process of selecting a jury for a criminal case. The name of the case is *United States v. Dzhokhar Tsarnaev*. Mr. Tsarnaev is charged in connection with a bombing that occurred near the finish line of the Boston Marathon on April 15, 2013, and that resulted in the deaths of three people. Mr. Tsarnaev is also charged in the death of an MIT police officer three days later, and with additional crimes that occurred in Cambridge, Boston and Watertown on the night of April 18-19, 2013.

As in every criminal case, the defendant is presumed innocent of all of these charges, and the government bears the burden of proving his guilt beyond a reasonable doubt. The jury that we are about to start selecting today and in the next several days will have the task of listening to the evidence and deciding whether the government has proven the defendant's guilt of the charges against him beyond a reasonable doubt.

This case differs from many other criminal cases, however, in the following way. When a jury convicts a defendant of a crime, the law usually requires that the judge, and not the jury, decides what the punishment should be. In this case, however, if the jury finds Mr. Tsarnaev guilty of crimes that carry a possible death sentence, the jury, rather than the judge, will be required to decide whether Mr. Tsarnaev should be sentenced to death or to life in prison without possibility of release — the only other possible sentence for those crimes.

When I finish these preliminary remarks, a questionnaire will be distributed to you. You will fill out the questionnaire before leaving today. As you fill it out, please do not discuss the questions or your answers with anyone else in the room. Also, please understand that there are no right or wrong answers to the questions contained in the form. All we ask is that you answer each question *truthfully* and *completely* to the best of your ability. The questionnaires are not designed to pry into personal matters unnecessarily. Using questionnaires makes the process less time-consuming and inconvenient for you.

When you have filled out the questionnaire and given it to the Court's staff, you will be free to leave. During the coming week, the questionnaires will be copied, and then reviewed by the attorneys working on this case and by me. The completed questionnaire will initially be reviewed only by the participants in this case and by the court. The filled-out questionnaires will not become part of the public record until I determine whether they include any sensitive information that should be kept confidential permanently. If they do, I intend to keep that information, and any possible further questioning concerning it, from being available to the public. Moreover, even when filled-out questionnaires are eventually made public, they will be identified only by juror number, not by the jurors' names.

You must call in to the telephone number that you have been given on ____, January ____, after 5:00 p.m., and listen to a pre-recorded message that will tell you about your possible future service in this case. Some jurors will be told then that they have been excused permanently. Some jurors will be told to come to court again on

_____, January __, 2015, to participate further in the jury selection process.

And some jurors will be told to call in at a later date for further instructions.

If you are concerned that service as a juror in this case will be a particular hardship for you, you will have a chance to describe that hardship on the questionnaire. If you are not excused based on what you wrote, I will discuss your hardship request in person with you when you come back to court. Any request to be excused will be seriously considered. However, I cannot guarantee that you will necessarily be excused if you think jury service in this case would be a hardship for you, because finding a jury that represents a fair cross-section of the community will always pose some degree of hardship for the citizens who are chosen to serve.

The process of jury selection will continue for some of you beginning on, January __, as groups of jurors are called in daily for individual discussion about their ability to serve. Although it is not possible to predict exactly, I expect it will take up to ____ weeks to complete the selection of the jurors for this case.

If you are selected to serve, the trial is expected to start by about January 26 and is expected to last up to ____ weeks. However, sometimes cases take longer than expected, so jurors should plan to be available until _____A p r i l ____, 2015. Except when deliberating to decide the case, the jury will sit on Monday, Tuesday, Wednesday, and Thursday, from about 9:00 a.m. to 4:00 p.m., with time off for breaks and lunch. The jury will not sit on Fridays, unless it is deliberating, or o n d a y s w h e n national or religious holidays fall. The trial will continue through the February school vacation week and, if still in progress, the April school vacation week. I do not plan to

sequester the jury. Therefore, jurors should be able to go home every day.

There has been a great deal of publicity about this case. I expect that the media will continue to report on it. The mere fact that you may have read or heard something about the case does not mean that you cannot be a juror. We simply need to know what you have read, seen, heard, or experienced in relation to the case. There are no “right answers.” We only want your honest and true thoughts and opinions. The purpose of the jury selection process is to try to ensure that each person selected is an appropriate juror for this case, and that the jury as a whole will fairly represent the community.

This criminal case has been brought by the United States government. I will sometimes refer to the government as the prosecution. The government is represented at this trial by Assistant United States Attorneys Alope Chakravarty, Steven Mellin, Nadine Pellegrini, and William Weinreb, whom I will ask to stand. The defendant, Dzhokhar Tsarnaev, is represented by Attorneys David Bruck, Judy Clarke, Miriam Conrad, Bill Fick, and Tim Watkins, whom I will also ask to stand and introduce Mr. Tsarnaev.

Although you have only heard briefly about this case this morning and, indeed, have heard no evidence as yet, it is extremely important that you do not discuss this case among yourselves or with anyone else. That is because a jury’s verdict must be based on the evidence, and must be free from outside influence. Therefore, I am ordering each of you not to discuss this case with your family, friends or any other person until I either excuse you, or if you are selected as a juror, until the case concludes. You may tell others that you may be a juror in this case, and may discuss the schedule with your family and employer,

because they are entitled to know when you might not be available. However, you are not to discuss anything else or allow anyone to discuss with you anything about this case until you are excused or, if you are a juror, until the trial concludes.

This means, among other things, that you may not speak to any member of the news media about this case. There is legitimate public interest in this matter and the news media may play a vital role in informing the public about it. It would, however, be improper for you to discuss this case, or your role in it, with them.

If anyone should ask to speak to you about the case, you should politely decline. If anyone persists, please inform the jury clerk or my deputy clerk promptly.

I also instruct you not to read, watch, or listen to any reports about this case in the media until you are either excused, or if you are selected as a juror, until the case concludes. If you should by chance encounter a news story in the newspaper, on the radio, on television, or on the internet, please just turn the page, change the channel, or close the screen. Do not read, listen to or watch anything related to this case. And do not under any circumstances do any on-line research about this case, or about anything or anyone who may be connected to this case. This includes Googling or otherwise researching the defendant, any of the witnesses or events involved, or any of the trial participants such as the lawyers or the judge. Likewise, you must not communicate about this case, or allow anyone to communicate about it with you, by telephone, text-messaging, Skype, or email, or via social media such as Twitter or Facebook. In addition, please do not discuss this case or anything I have just said with any of the other potential jurors or anyone else here today.

Just take the time necessary to respond to the questionnaire thoughtfully, honestly and completely. Remember that there are no right or wrong answers to any of the questions. Please write or print clearly. Do not fill out the section marked Juror Number; the court staff will fill it out for you. If you cannot answer a question because you do not understand it, write “Do not understand.” If you cannot answer because you do not know the answer, write “Do not know.” If you want to explain your answer, do so either in the space provided on the questionnaire, or on one of the sheets attached to the questionnaire. If you use one of the blank sheets, please write the number of the question you are answering.

Please fill out the entire questionnaire. If you would prefer to answer a sensitive question orally rather than in writing, you may write “Private” in response to that question.

Because your answers are part of this vital jury selection process, your answers must be truthful and signed under the penalty of perjury at the end of the questionnaire. When you have completed and signed the questionnaire, you should give it to a member of the court staff. You then may leave, and call in on, January ____, after 5:00 p.m., for further instructions.

Let me conclude as I began, by thanking you for being here this morning and for taking part in this important process. We will now distribute the questionnaires.